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13 SKORPIOS TECHNOLOGIES, INC.

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**UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MARK GILL

Plaintiff,

v.

SKORPIOS TECHNOLOGIES, INC.,  
and DOES 1 through 30,

Defendants.

Case No. 5:24-cv-01868

**SKORPIOS TECHNOLOGIES,  
INC.'S ANSWER AND  
DEFENSES TO COMPLAINT**

Defendant Skorpions Technologies, Inc. ("STI"), by and through its attorneys O'Melveny & Myers LLP, hereby files its Answer and Affirmative Defenses to the Complaint (ECF No. 1 Exhibit B, the "Complaint") of Plaintiff Mark Gill ("Plaintiff"), and admits, denies, and avers as follows:

## **NATURE OF ACTION<sup>1</sup>**

1. The allegations contained in Paragraph 1 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 1, except for the following: STI admits that it formerly employed Plaintiff; and STI admits that its personnel records indicate that Plaintiff provided it with a place of residence in Riverside County, California.

2. The allegations contained in Paragraph 2 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 2, and avers the following: STI is a Delaware corporation with a principal place of business located in Albuquerque, New Mexico.

3. The allegations contained in Paragraph 3 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 3, except for the following: STI admits that Plaintiff purports to sue certain Doe defendants.

4. The allegations contained in Paragraph 4 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 4.

5. The allegations contained in Paragraph 5 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph

<sup>1</sup> The heading and titles contained in the Complaint and reproduced herein are not factual allegations and therefore no response is required. To the extent a response may be required, STI denies any and all allegations contained in or referenced by the headings and titles.

1 5, except for the following: STI admits that Plaintiff purports to sue thirty Doe  
2 defendants.

3 6. The allegations contained in Paragraph 6 of the Complaint state legal  
4 conclusions, to which no responsive pleading is required, but to the extent a  
5 responsive pleading is required, STI denies each and every allegation in Paragraph  
6 6.

7 7. The allegations contained in Paragraph 7 of the Complaint state legal  
8 conclusions, to which no responsive pleading is required, but to the extent a  
9 responsive pleading is required, STI denies each and every allegation in Paragraph  
10 7.

11 8. The allegations contained in Paragraph 8 of the Complaint state legal  
12 conclusions, to which no responsive pleading is required, but to the extent a  
13 responsive pleading is required, STI denies each and every allegation in Paragraph  
14 8.

15 9. The allegations contained in Paragraph 9 of the Complaint state legal  
16 conclusions, to which no responsive pleading is required, but to the extent a  
17 responsive pleading is required, STI denies each and every allegation in Paragraph  
18 9.

19 10. The allegations contained in Paragraph 10 of the Complaint state legal  
20 conclusions, to which no responsive pleading is required, but to the extent a  
21 responsive pleading is required, STI denies each and every allegation in Paragraph  
22 10.

23 11. The allegations contained in Paragraph 11 of the Complaint state legal  
24 conclusions, to which no responsive pleading is required, but to the extent a  
25 responsive pleading is required, STI denies each and every allegation in Paragraph  
26 11, except as follows: STI admits that Plaintiff purports to seek to recover  
27 reasonable attorneys' fees.

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## **EXHAUSTION**

2       12. The allegations contained in Paragraph 12 of the Complaint state legal  
3 conclusions, to which no responsive pleading is required, but to the extent a  
4 responsive pleading is required, STI denies each and every allegation in Paragraph  
5 12, except for the following: STI admits that Plaintiff sent a letter to the California  
6 Labor and Workforce Development Agency (“LWDA”) dated March 29, 2024,  
7 purportedly pursuant to the California Labor Code Private Attorneys General Act,  
8 Labor Code §§ 2698 *et seq.* (“PAGA”); STI admits that Plaintiff purports to bring  
9 claims on behalf of “former employees of [STI] who were denied their wages at  
10 separation”; and STI alleges that it is without sufficient information or knowledge  
11 to form a belief regarding Plaintiff’s statement that “Plaintiff has not been advised  
12 that the LWDA intends to pursue the claim” and on that basis denies it.

## **BACKGROUND**

13. The allegations contained in Paragraph 13 of the Complaint state legal  
conclusions, to which no responsive pleading is required, but to the extent a  
responsive pleading is required, STI denies each and every allegation in Paragraph  
13, except for the following: STI admits that Plaintiff was hired in March 2023;  
and STI avers that Plaintiff was continually employed through his voluntary  
retirement in May 2024.

20       14. The allegations contained in Paragraph 14 of the Complaint state legal  
21 conclusions, to which no responsive pleading is required, but to the extent a  
22 responsive pleading is required, STI denies each and every allegation in Paragraph  
23 14.

24       15. The allegations contained in Paragraph 15 of the Complaint state legal  
25 conclusions, to which no responsive pleading is required, but to the extent a  
26 responsive pleading is required, STI denies each and every allegation in Paragraph  
27 15.

1       16. The allegations contained in Paragraph 16 of the Complaint state legal  
2 conclusions, to which no responsive pleading is required, but to the extent a  
3 responsive pleading is required, STI denies each and every allegation in Paragraph  
4 16.

5       17. The allegations contained in Paragraph 17 of the Complaint state legal  
6 conclusions, to which no responsive pleading is required, but to the extent a  
7 responsive pleading is required, STI denies each and every allegation in Paragraph  
8 17, and avers the following: Plaintiff was employed by STI from March 2023 until  
9 his voluntary retirement in May 2024; and Plaintiff was timely paid out his accrued  
10 but unused vacation and all other wages due upon his separation in May 2024.

11       18. The allegations contained in Paragraph 18 of the Complaint state legal  
12 conclusions, to which no responsive pleading is required, but to the extent a  
13 responsive pleading is required, STI denies each and every allegation in Paragraph  
14 18.

15       19. The allegations contained in Paragraph 19 of the Complaint state legal  
16 conclusions, to which no responsive pleading is required, but to the extent a  
17 responsive pleading is required, STI denies each and every allegation in Paragraph  
18 19.

19       20. The allegations contained in Paragraph 20 of the Complaint state legal  
20 conclusions, to which no responsive pleading is required, but to the extent a  
21 responsive pleading is required, STI denies each and every allegation in Paragraph  
22 20.

23       21. The allegations contained in Paragraph 21 of the Complaint state legal  
24 conclusions, to which no responsive pleading is required, but to the extent a  
25 responsive pleading is required, STI denies each and every allegation in Paragraph  
26 21, except for the following: STI admits that Plaintiff sent a letter to the LWDA,  
27 purportedly pursuant to PAGA; and STI admits that Plaintiff purports to bring

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1 claims on behalf of “employees who were improperly denied their wages at  
2 separation.”

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO PAY ALL WAGES AT SEPARATION**

5 **(AGAINST ALL DEFENDANTS)**

6 22. STI incorporates its responses to Paragraphs 1 – 21, *supra*, as if fully  
7 restated here.

8 23. The allegations contained in Paragraph 23 of the Complaint state legal  
9 conclusions, to which no responsive pleading is required, but to the extent a  
10 responsive pleading is required, STI denies each and every allegation in Paragraph  
11 23.

12 24. The allegations contained in Paragraph 24 of the Complaint state legal  
13 conclusions, to which no responsive pleading is required, but to the extent a  
14 responsive pleading is required, STI denies each and every allegation in Paragraph  
15 24.

16 25. The Complaint omits the twenty-fifth (25th) numbered paragraph and  
17 accordingly no response is possible.

18 26. The allegations contained in Paragraph 26 of the Complaint state legal  
19 conclusions, to which no responsive pleading is required, but to the extent a  
20 responsive pleading is required, STI denies each and every allegation in Paragraph  
21 26.

22 27. The allegations contained in Paragraph 27 of the Complaint state legal  
23 conclusions, to which no responsive pleading is required, but to the extent a  
24 responsive pleading is required, STI denies each and every allegation in Paragraph  
25 27.

26 28. The allegations contained in Paragraph 28 of the Complaint state legal  
27 conclusions, to which no responsive pleading is required, but to the extent a  
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1 responsive pleading is required, STI denies each and every allegation in Paragraph  
2 28, except for the following: STI admits that Plaintiff's hourly rate was thirty-two  
3 U.S. Dollars and no cents (\$32.00) per hour.

4       29. The allegations contained in Paragraph 29 of the Complaint state legal  
5 conclusions, to which no responsive pleading is required, but to the extent a  
6 responsive pleading is required, STI denies each and every allegation in Paragraph  
7 29.

8       30. The allegations contained in Paragraph 30 of the Complaint state legal  
9 conclusions, to which no responsive pleading is required, but to the extent a  
10 responsive pleading is required, STI denies each and every allegation in Paragraph  
11 30, except for the following: STI admits that Plaintiff has retained counsel; and  
12 STI admits that Plaintiff purports to seek to recover reasonable attorneys' fees.

## **SECOND CAUSE OF ACTION**

**WAITING TIME PENALTIES (CAL. LABOR CODE § 203)**  
**(AGAINST ALL DEFENDANTS)**

16        31. STI incorporates its responses to Paragraphs 1 – 30, *supra*, as if fully  
17 restated here.

18       32. The allegations contained in Paragraph 32 of the Complaint state legal  
19 conclusions, to which no responsive pleading is required, but to the extent a  
20 responsive pleading is required, STI denies each and every allegation in Paragraph  
21 32.

22       33. The allegations contained in Paragraph 33 of the Complaint state legal  
23 conclusions, to which no responsive pleading is required, but to the extent a  
24 responsive pleading is required, STI denies each and every allegation in Paragraph  
25 33.

26       34. The allegations contained in Paragraph 34 of the Complaint state legal  
27 conclusions, to which no responsive pleading is required, but to the extent a

1 responsive pleading is required, STI denies each and every allegation in Paragraph  
2 34.

3 35. The allegations contained in Paragraph 35 of the Complaint state legal  
4 conclusions, to which no responsive pleading is required, but to the extent a  
5 responsive pleading is required, STI denies each and every allegation in Paragraph  
6 35.

7 36. The allegations contained in Paragraph 36 of the Complaint state legal  
8 conclusions, to which no responsive pleading is required, but to the extent a  
9 responsive pleading is required, STI denies each and every allegation in Paragraph  
10 36.

11 37. The allegations contained in Paragraph 37 of the Complaint state legal  
12 conclusions, to which no responsive pleading is required, but to the extent a  
13 responsive pleading is required, STI denies each and every allegation in Paragraph  
14 37, except for the following: STI admits that Plaintiff purports to recover waiting  
15 time penalties in the amount of seven thousand, six hundred and eighty U.S. Dollars  
16 and no cents (\$7,680.00).

17 38. The allegations contained in Paragraph 38 of the Complaint state legal  
18 conclusions, to which no responsive pleading is required, but to the extent a  
19 responsive pleading is required, STI denies each and every allegation in Paragraph  
20 38, except for the following: STI admits that Plaintiff purports to have hired an  
21 attorney; and STI admits that Plaintiff purports to seek to recover reasonable  
22 attorneys' fees.

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**THIRD CAUSE OF ACTION**  
**PRIVATE ATTORNEYS GENERAL ACT**  
**(CAL. LABOR CODE § 2633 [sic], *et seq.*)**  
**(AGAINST ALL DEFENDANTS)**

39. STI incorporates its responses to Paragraphs 1 – 38, *supra*, as if fully restated here.

40. The allegations contained in Paragraph 40 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 40.

41. The allegations contained in Paragraph 41 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 41, except for the following: STI admits that Plaintiff sent a letter to the LWDA dated March 29, 2024, purportedly pursuant to PAGA; STI admits that a copy of said letter is attached as Exhibit A to the Complaint; and STI avers that the content of said letter speaks for itself.

42. The allegations contained in Paragraph 42 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 42, except for the following: STI alleges that it is without sufficient information or knowledge to form a belief regarding Plaintiff's statement that "there has been no election by the LWDA to pursue the claims" and on that basis denies it.

43. The allegations contained in Paragraph 43 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 43.

44. The allegations contained in Paragraph 44 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 44, except for the following: STI admits that Plaintiff purports to seek to recover penalties pursuant to PAGA.

45. The allegations contained in Paragraph 45 of the Complaint state legal conclusions, to which no responsive pleading is required, but to the extent a responsive pleading is required, STI denies each and every allegation in Paragraph 45, except for the following: STI admits that Plaintiff purports to seek to recover reasonable attorneys' fees.

## **PRAYER FOR RELIEF**

The allegations in the “Prayer for Relief” following Paragraph 45 of the Complaint are conclusions of law for which no response is required, but to the extent a responsive pleading is required, STI denies each and every allegation in the Prayer for Relief and further denies that (i) either Plaintiff or the other allegedly aggrieved employees were damaged in the sum alleged or sums alleged or in any sum at all; and (ii) either Plaintiff or the other allegedly aggrieved employees are entitled to any recovery at all.

## **GENERAL DENIAL AND RESERVATION**

All allegations not hereinabove specifically admitted, denied, or otherwise explained are here and now denied in their entirety by STI.

## STI'S DEFENSES

STI reserves the right to rely upon any of the following or additional defenses to the claims asserted Plaintiff to the extent that such defenses, including any defenses asserted by another party, are supported by information developed through discovery or evidence at trial. STI reserves the right to assert additional defenses as they are revealed through the discovery and investigation of this matter.

1 STI further reserves the right to amend this Answer to assert additional defenses  
2 and other claims as discovery proceeds.

3 Accordingly, without assuming any burden of proof that it would not  
4 otherwise bear, and reserving its right to assert other defenses as discovery  
5 proceeds, STI asserts the following affirmative defenses to the purported claims set  
6 forth in the Complaint.

7 **FIRST AFFIRMATIVE DEFENSE**

8 **Failure to State a Cause of Action**

9 Plaintiff's claims and the claims of any allegedly aggrieved employees on  
10 whose behalf Plaintiff purports to bring claims under PAGA are barred, in whole or  
11 in part, to the extent they fail to state facts sufficient to constitute a cause of action.

12 **SECOND AFFIRMATIVE DEFENSE**

13 **Failure to State a Cause of Action for Damages**

14 The claims of Plaintiff and the claims of any allegedly aggrieved employees  
15 on whose behalf Plaintiff purports to bring claims under PAGA are barred, in whole  
16 or in part, for failure to state a cause of action against STI for unpaid wages,  
17 compensatory damages, actual or consequential damages, special or incidental  
18 damages, disgorgement, or restitution, statutory penalties, declaratory or injunctive  
19 relief, interest, or attorneys' fees and costs. Plaintiff and any allegedly aggrieved  
20 employees have sustained no damages or, if any, *de minimis* damages, which are  
21 not actionable under applicable law.

22 **THIRD AFFIRMATIVE DEFENSE**

23 **Compliant Policies**

24 Plaintiff's claims and the claims of any allegedly aggrieved employees on  
25 whose behalf Plaintiff purports to bring claims under PAGA are barred, in whole or  
26 in part, because STI had a policy and practice of paying out accrued but unused  
27 vacation upon separation in compliance with applicable law.

1                   **FOURTH AFFIRMATIVE DEFENSE**

2                   **Statute of Limitations**

3                   The claims of Plaintiff and the claims of any allegedly aggrieved employees  
4                   on whose behalf Plaintiff purports to bring claims under PAGA, or some of them,  
5                   are barred, in whole or in part, by the applicable statutes of limitations.

6                   **FIFTH AFFIRMATIVE DEFENSE**

7                   **Waiver**

8                   Plaintiff's claims and the claims of any allegedly aggrieved employees on  
9                   whose behalf Plaintiff purports to bring claims under PAGA, or some of them, may  
10                  have been waived, discharged, and/or abandoned, including by agreements with  
11                  STI.

12                  **SIXTH AFFIRMATIVE DEFENSE**

13                  **Estoppe**

14                  Plaintiff's claims and the claims of any allegedly aggrieved employees on  
15                  whose behalf Plaintiff purports to bring claims under PAGA, or some of them, are  
16                  barred in whole or in part because Plaintiff and/or the allegedly aggrieved  
17                  employees are estopped by their own conduct to benefit from any right to damages  
18                  or other monetary relief from STI.

19                  **SEVENTH AFFIRMATIVE DEFENSE**

20                  **Adequate Remedy at Law**

21                  Plaintiff's requests for injunctive relief are barred because Plaintiff has an  
22                  adequate remedy at law and/or the other requirements for granting injunctive relief  
23                  cannot be satisfied.

24                  **EIGHTH AFFIRMATIVE DEFENSE**

25                  **Good Faith**

26                  Plaintiff's claims and the claims of any allegedly aggrieved employees on  
27                  whose behalf Plaintiff purports to bring claims under PAGA, or some of them, are

1 barred in whole or in part because STI has at all times material to this matter acted  
2 in good faith in conformity with and in reliance on statute, common law, and the  
3 written administrative regulations, orders, rulings, guidelines, approvals and/or  
4 interpretations of governmental agencies, and on the basis of a good-faith and  
5 reasonable belief that it had complied fully with applicable laws.

6 **NINTH AFFIRMATIVE DEFENSE**

7 **No “Willful” Violations**

8 Neither Plaintiff nor any allegedly aggrieved employee is entitled to “waiting  
9 time” penalties because any wages due at the time of separation from employment  
10 were paid consistent with California Labor Code §§ 201 & 202 and/or because  
11 STI’s behavior was not willful within the meaning of California Labor Code § 203.

12 **TENTH AFFIRMATIVE DEFENSE**

13 **No Representative Action**

14 Plaintiff’s claims, and each of them, cannot and should not be maintained on  
15 a representative basis because those claims, and each of them, fail to meet the  
16 necessary requirements, including, *inter alia*, standing, class ascertainability,  
17 typicality, commonality, numerosity, manageability, superiority, and adequacy of  
18 the representative plaintiff.

19 **ELEVENTH AFFIRMATIVE DEFENSE**

20 **Unconstitutional Representative Action**

21 Any finding of liability pursuant to California Labor Code §§ 2698 *et seq.*  
22 would violate the Due Process Clauses of the United States and California  
23 Constitutions because the standards of liability under those statutes are unduly  
24 vague and subjective, and permit retroactive, random, arbitrary, and capricious  
25 punishment that serves no legitimate government interest.

1                   **TWELFTH AFFIRMATIVE DEFENSE**

2                   **No Non-Class Representative Action**

3                   Any finding of liability pursuant to California Labor Code §§ 2698 *et seq.* on  
4 a non-class representative basis, without individualized proof of each alleged  
5 violation with regard to each allegedly aggrieved employee, would violate  
6 Defendant's rights, including but not limited to those under the United States  
7 Constitution and the California Constitution, because of the complex factual nature  
8 of Plaintiff's claims and the lack of factual similarity to other allegedly aggrieved  
9 employees.

10                  **THIRTEENTH AFFIRMATIVE DEFENSE**

11                  **Failure to Exhaust**

12                  Plaintiff's claims pursuant to California Labor Code §§ 2698 *et seq.*, and the  
13 claims of each allegedly aggrieved employee as set forth in the Complaint, or some  
14 of them, are barred in whole or in part because Plaintiff failed to satisfy the  
15 jurisdictional prerequisites mandated by said statute, including but not limited to the  
16 requirement to provide sufficient notice of his factual allegations and/or theories of  
17 liability to (i) allow the Labor and Workforce Development Agency to assess the  
18 alleged violations or (ii) allow Defendant to determine what policies or practices  
19 were being complained of.

20                  **FOURTEENTH AFFIRMATIVE DEFENSE**

21                  **Excessive Fines**

22                  Under the circumstances of this case, any award of penalties pursuant to  
23 PAGA and/or Labor Code § 203 would violate the Excessive Fines and Due  
24 Process Clauses of the United States Constitution and/or the California  
25 Constitution.

1                   **FIFTEENTH AFFIRMATIVE DEFENSE**

2                   **Setoff and Recoupment**

3                   If any damages have been sustained by virtue of the conduct complained of,  
4 although such is not admitted hereby or herein and is specifically denied, STI is  
5 entitled under the equitable doctrine of setoff and recoupment to offset all  
6 obligations owed by Plaintiff and/or allegedly aggrieved employees to STI against  
7 any judgment that may be entered against STI.

8                   **SIXTEENTH AFFIRMATIVE DEFENSE**

9                   **Standing**

10                  The claims of Plaintiff and/or the claims of any allegedly aggrieved  
11 employees on whose behalf Plaintiff purports to bring claims under PAGA are  
12 barred in whole or in part due to lack of standing.

13                  **SEVENTEENTH AFFIRMATIVE DEFENSE**

14                  **Preclusion**

15                  The claims of Plaintiff and/or the claims of any allegedly aggrieved  
16 employees on whose behalf Plaintiff purports to bring claims under PAGA, or some  
17 of them, are barred in whole or in part by the doctrines of res judicata, collateral  
18 estoppel, claim preclusion, and issue preclusion.

19                  **EIGHTEENTH AFFIRMATIVE DEFENSE**

20                  **Mandatory Arbitration**

21                  The First and Second Caused of Action, and the individual component of the  
22 Third Cause of Action, may not be litigated in court because said claims are subject  
23 to individual, mandatory, final, and binding arbitration. *See, e.g., Adolph v. Uber*  
*Techs., Inc.*, 14 Cal. 5th 1104 (2023); *Duran v. EmployBridge Holding Co.*, 92 Cal.  
25 App. 5th 59 (2023).

26                  **NINETEENTH AFFIRMATIVE DEFENSE**

27                  **Unclean Hands**

The claims of Plaintiff and/or the claims of any allegedly aggrieved employees on whose behalf Plaintiff purports to bring claims under PAGA are barred, in whole or in part, by the Plaintiff's and the allegedly aggrieved employees' unclean hands and/or inequitable or wrongful conduct.

## **TWENTIETH AFFIRMATIVE DEFENSE**

## **Satisfaction & Accord**

Plaintiff's claims, and the claims of the putative members of the purported class, classes, subclasses, and/or collective as set forth in the Complaint, or some of them, are barred in whole or in part by the principles of accord and satisfaction and payment..

## **TWENTY-FIRST AFFIRMATIVE DEFENSE**

## Release

Plaintiff's claims, and/or the claims of any allegedly aggrieved employees on whose behalf Plaintiff purports to bring claims under PAGA, or some of them, are barred in whole or in part because said claims have been released by the employee(s) in question.

## **TWENTY-SECOND AFFIRMATIVE DEFENSE**

### Laches

Plaintiff's claims, and/or the claims of any allegedly aggrieved employees on whose behalf Plaintiff purports to bring claims under PAGA, or some of them, are barred in whole or in part by the doctrine of laches.

## **TWENTY-THIRD AFFIRMATIVE DEFENSE**

## **Issues Triable by Jury**

Plaintiff is not entitled to have equitable issues or matters of law tried by a jury, and Plaintiff's demand for a jury trial should be so limited.

1                   **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2                   **No Private Right of Action**

3 Plaintiff's claims, or some of them, are barred to the extent they are brought  
4 under California Labor Code § 226.7, as there is no private right of action under  
5 said statute.

6                   **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

7                   **Frivolous Claims**

8 Plaintiff's claims, and each of them, brought on behalf of himself and the  
9 allegedly aggrieved employees on whose behalf Plaintiff purports to bring claims  
10 under PAGA, or some of them, are "frivolous, unreasonable, or groundless" within  
11 the meaning of *Christianburg v. Garment Co. v. EEOC*, 434 U.S. 412 (1978) and  
12 *Cummings v. Benco Building Servs.*, 11 Cal. App. 4th 383 (1992), and, accordingly,  
13 Defendant should recover all costs and attorneys' fees incurred herein.

14                   **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

15                   **Award of Costs**

16 STI is entitled to costs under Federal Rule of Civil Procedure 41(d).

17                   **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

18 STI is informed and believes and on that basis alleges that STI may have  
19 additional defenses available, which are not now fully known and of which it is not  
20 now aware. STI reserves the right to raise and assert such additional defenses once  
21 such additional defenses have been ascertained.

22                   **STI'S PRAYER FOR RELIEF**

23 **WHEREFORE**, STI respectfully requests:

- 24                   1. That the Complaint and each cause of action therein be  
25 dismissed with prejudice;  
26                   2. That Plaintiff's request for an injunction, an award of damages,  
27 liquidated damages, penalties, and other relief be denied in their

1                   entirety, and that Plaintiff take nothing by way of the Complaint; and  
2                   3.       That the Court award STI such other and further relief as the  
3                   Court may deem just and proper.

4                   Dated: September 6, 2024

5                   O'MELVENY & MYERS LLP  
6                   ERIC AMDURSKY  
6                   ADAM P. KOHSEENEEY  
7                   ANNA M. ROTROSEN

8                   By: /s/ Adam P. KohSweeney  
9                   Adam P. KohSweeney

10                  Attorneys for Defendant  
11                  Skorpions Technologies, Inc.

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